

LAWYERS FOUGHT IN VAIN TO FREE THAW

Kept Up Struggle for More Than Five Years to Get Slayer From Matteawan.

JEROME BLOCKED ESCAPE

Dived Deeper Into Thaw's History When Efforts Were Made to Prove Him Sane.

Harry K. Thaw spent more than five years and a half in the Matteawan Insane Asylum. During that time able lawyers, using all the resources of experience and skill, vainly to have him adjudged sane and set free.

There were three habeas corpus hearings to test Thaw's sanity. Other writs were applied for, but denied. There were applications also for trials by jury as to Thaw's sanity. These, too, were denied. There were appeals to the Appellate Division and to the Court of Appeals in each fight, but none resulted in victory for Thaw.

In these legal battles Thaw's lawyers were pitted against William T. Jerome, who had prosecuted the young Pittsburgher for murder.

But Mr. Jerome's thorough acquaintance with the Thaw family enabled him to defeat every effort to win freedom for Thaw. As a result Thaw came to regard Mr. Jerome with even greater respect and fear than during the days of his murder trial. Thaw admitted that but for Jerome he would have succeeded in getting a court order setting him free from Matteawan.

Disobeyed Littleton's Advice.

When Thaw was committed to Matteawan by Justice Dowling, he was advised by Martin W. Littleton, who obtained his acquittal, to wait at least a year before attempting to gain his freedom. Thaw disobeyed that advice and became so impatient that he requested the court to go into court and apply for a writ. Thereupon Thaw hired a lawyer in Matteawan, James C. Graham, to take up his case.

Within three months, therefore, Thaw was taken before Supreme Court Justice Morchauer in Dutchess county to be tested as to his sanity. At that time Thaw's lawyer argued that the commitment to Matteawan was illegal and also presented evidence to show the sanity of his client. Justice Morchauer, however, took no notice of the evidence and Thaw's lawyer argued that the commitment to Matteawan was illegal and also presented evidence to show the sanity of his client.

That defeat, in May, 1908, was not regarded as a severe blow by Thaw's lawyers. In the course of the next year Thaw made another attempt to get a writ of habeas corpus, but was not successful. Finally, in 1909, Justice Mills at the request of Thaw's mother consented to hear testimony bearing on the young man's sanity.

At that hearing Thaw's attorney, Charles Morchauer, caused surprise by calling as witnesses the experts who had testified at the murder trial that Thaw was insane. The experts testified that Thaw had recovered from his mental trouble. Many of them who had testified at the murder trial that Thaw had recovered from his mental trouble. Many of them who had testified at the murder trial that Thaw had recovered from his mental trouble.

To prove that Thaw was suffering from an incurable mental disease due to hereditary causes and to degenerate practices Jerome called witnesses who told of the Thaw family. In December, 1904, a Mrs. Ruelle Merrill described the manner in which Thaw whipped girls. She produced the horsewhips that he used. Furthermore, Mrs. Evelyn Nesbit, who had testified in his behalf in the murder trial, went on the stand against him and told of threats that Thaw made to kill her.

Thaw Told of "Conspiracy."

Thaw, who went on the witness stand, told of a conspiracy between him and Martin W. Littleton to explain the weird comment he had scribbled on letters and also to make reasonable many letters of instruction to counsel. Under the cross-examination of Mr. Jerome he broke down and from that moment there was no doubt in the minds of court spectators as to what the court's decision would be.

Justice Mills' decision was emphatic. He held that Thaw was insane and that his recovery would be dangerous to the community. His opinion reviewed in detail Thaw's history and mental condition. It was a crushing blow to Thaw's mother.

In the next three years Thaw's lawyers sought to obtain other tests. The last Judge Harbo, who had been the one to free Thaw after his death Clarence Shearn was retained. Mr. Shearn tried to have a jury inquiry into Thaw's sanity and, failing in that, finally had Thaw committed to Justice Keogh in the Supreme Court in White Plains for the third hearing.

Mr. Shearn's preparation of the case was remarkable for its attention to detail and its thoroughness. He sought to prove that Thaw was temporarily insane at the time he killed Stanford White, and that his insanity was caused by Evelyn Nesbit's story of White's treatment of her. He tried to show that the delusions of Thaw—such as the attempts on Thaw's life before he killed White, White's treatment of young girls and a conspiracy to keep Thaw in the insane asylum—were all the result of his insanity.

He had Thaw explain in detail every bit of writing, every drawing and every statement that Jerome used as proof of Thaw's insane mind.

Jerome Again Wins.

Mr. Jerome, on the other hand, offered evidence concerning Thaw's degenerate practices and of the alleged hereditary insanity in the Thaw family. He called Clifford W. Harbridge, one time Thaw's personal counsel, to tell about payments of money to girls who disappeared after the shooting of White. He called Mrs. Evelyn Nesbit, who made the remark on the stand that Harry Thaw "had hidden behind her skirts long enough."

Thaw, on his part, called the evidence of White's leading up to the killing of White. He insisted, however, that he did not remember the shooting. He said that one of his former counsel several years before had consulted with him and advised him to make a statement, in which he said that he had forgotten all about the incident. Justice Keogh also decided against Thaw and sent him back to Matteawan.

The last sensation in the Thaw case came in February when William F. Clark, secretary to the Butler commission of inquiry, testified that John R. Russell, superintendent of Matteawan, had received \$25,000 to release Thaw from the asylum. The money was supposed to have been paid to him by John Nicholas Anhalt, a young lawyer of this city. Dr. Russell admitted that Anhalt had offered him a bribe of \$25,000.

As a result, Thaw and his mother, Mrs. Mary Capley Thaw, were witnesses before the Grand Jury in this city. Anhalt was indicted, and the commission is not less than two or not more than four years in being blind for offering a bribe to Dr. Russell.

On March 1 Dr. Charles Kennedy, a

Verdict That Sent Thaw to Matteawan

The verdict of the twelve jurors who tried Thaw, in the words of their foreman, Charles E. Greenleaf, was:

"We find the defendant not guilty, on the ground of his insanity at the time of his commission of the act."

The court order by Judge Vic or J. Dowling after the verdict was as follows:

"Upon the testimony in his case, apart from any other consideration the right arises, the court is satisfied that the enlargement of the defendant would be dangerous to public safety and the impressions of the court are strong as to the duty devolving upon its conscience to see to it that the defendant is not discharged. The court therefore orders and determines as follows:

"The defendant on his trial on said indictment having been acquitted by the jury on the ground of insanity, and the court being satisfied of the fact and the defendant being in custody, and the court deeming his discharge at this time dangerous to the public safety, it is ordered that the said Harry K. Thaw be detained in safe custody and be sent to the Matteawan State Hospital, there to be kept in said hospital until further discharged by due course of law."

lawyer of 51 Chambers street, obtained another writ of habeas corpus from Supreme Court Justice Guy with the hope of proving Thaw's sanity. The proceedings, however, were stopped.

CRIME COST \$1,000,000.

Thaw's Mother Spent Fortune Trying to Free Son.

Harry Kendall Thaw has been fighting for his liberty ever since the night of June 25, 1904, when he walked up to Stanford White at Madison Square Roof Garden and fired two shots into his head and one into his shoulder. A fortune has been spent in legal procedure to secure Thaw's release. It was estimated that a bribe of \$25,000 was offered to get him out of Matteawan.

Thaw is the son of the late William Thaw of Pittsburgh, who died leaving an estate of \$400,000. The young man showed wild tendencies in his youth and his father left him only \$2,500 a year. His mother, Mrs. Mary C. Thaw, straightway made him an allowance of \$50,000 a year, and with that and a bequest Thaw set out to blaze the gayest path ever trod by any wealthy young American.

Before he met Evelyn Nesbit, a member of the "Florodora" company at the Casino, he had won notoriety by his "beauty dinner" in Paris, given at a cost of \$50,000, and had been frequently called the "modern" and "sophisticated" of his day. He was known as well on the other side of the Atlantic as on this.

Mrs. Nesbit had been, like a good many other young thorough girls, a stage actress. She met Thaw at that time, this country's leading actress. He secured for her several theatrical situations and sent her to a private school at Pompton, N. J. When she returned to New York, she met Thaw and he became infatuated with her at first sight.

Thaw Followed to Europe.

After a rumor had gained considerable circulation that she was to marry James Barrymore, an actor, she went to Paris with her mother. Mr. White paying the bills. Thaw followed. He deluged her with flowers, jewelry and presents. He and she left her mother and the young couple began a life of the Continent.

Before two months had elapsed she was back in New York seeking a reconciliation with Stanford White and circulating stories about cruelty to her on the part of Thaw. But in December, 1904, she sailed for Europe again, this time with Thaw, and a year later they returned to be married in Pittsburgh with Mrs. Thaw's approval.

Two years elapsed before the killing of White. During that time Mrs. Mary Thaw took her daughter-in-law in hand, introduced her to the society of the city, and she had her school in German and French. During this time Thaw had detectives continually following White in New York, and was himself always under the protection of his wife and mother.

On June 25, 1904, Thaw and his wife came to New York and stopped at the Lorraine Hotel. That evening White, who had been in the city for some time, was dining at the hotel with his son and some friends. Mr. and Mrs. Thaw dined at the same place, and the tables were so located that Mrs. Thaw could see White while Thaw was talking to her. It was the fault of our law.

Can't Be Extradited.

"The statutory verdict in the case of a person who has committed murder and is proved to have been insane at the time of the murder is not guilty by reason of insanity."

"The State Bar Association is now contending for a modification of this verdict to read 'not guilty by reason of insanity, but subject to the laws of the State.' The defendant is then committed by the court to the hospital for the criminal insane. In case of a verdict of 'not guilty by reason of insanity' if the prisoner escapes, he is not subject to recovery by extradition for the reason that under the statutes he has committed no crime."

"In case of a defendant found as under the statutes, but insane, he could be a criminal and can be recovered by extradition. The application of this to the case of Harry K. Thaw is evident."

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"It is impossible to forecast what Thaw will do in case he escapes to another State. His family has repeatedly stated that in the event of his release from Matteawan they would not take him back to Europe. Certainly he cannot return any time to the State of New York without the risk of being retried and sent back to Matteawan, and it is quite unlikely that he will return to New York for a long time, although the city has many attractions for him."

Fears Another Murder.

"The evidence is that under the influence of even a small amount of alcohol Thaw becomes quarrelsome and dangerous in the highest degree. It is not probable that he will abstain from alcohol and it is almost certain that he will sooner or later commit some act of violence, even if he is not insane. His homicidal tendencies are especially dangerous to his supposed enemies because they plot and scheme and murder, taking their victims unawares and giving him no chance of escape."

"The conditions at Matteawan since the reorganization effected by Dr. Joseph P. Smith in 1911 involving the resignation of Dr. Charles Lamb as superintendent and Dr. Amos T. Baker, first assistant, have up to the present time been most disorderly and dangerous. The new superintendent, Dr. Russell, was soon transferred to the State Commission in Lunacy. His successor, Dr. Russell, made a return under oath to the last writ of habeas corpus which was subsequently modified. Drs. May and Russell made a joint examination of Thaw for correction (sic) and this was presented to the court under oath."

"The original examination was suppressed. This was plainly a falsification of a document presented to court under oath. Subsequently a lawyer called Anhalt was introduced and testified to the crime of attempting to bribe Dr. Russell, to whom a large sum of money was promised in case he should release Thaw."

"In an investigation Dr. Russell gave contradictory testimony once before the Governor of the State and again before the court. During the last trial of a writ of habeas corpus at White Plains Dr. Russell testified to a severe personal examination of Thaw and admitted the knowledge of his superior officer, Dr. Russell. In this testimony Dr. Russell stated that Thaw was perfectly sane except for some slight constitutional inferiority. In a subsequent return to another writ of habeas

FLINT LOOKS FOR NEW THAW MURDER

Allenist Says Homicidal Mania Will Again Assert Itself.

WIFE'S LIFE IN DANGER

Says Escape Was Favored by Lack of Efficient Supervision.

Dr. Austin Flint, the alienist who has been a witness against Harry Thaw in every trial and every hearing on writs of habeas corpus, issued a statement last night in which he said that Thaw, once out of the State, was free. He criticized the management of Matteawan Asylum for conditions which permitted the escape and he believed Thaw would soon commit some act of violence now that he is at liberty.

Dr. Flint was asked if he intended to apply for a permit to carry a revolver. He said he was not, but he would apply for a permit to carry a revolver if he was threatened. His attention was directed to a statement to that effect, made by him prior to the last White Plains hearing.

"I said," he replied, "that I would apply for a revolver permit provided Thaw was liberated by the courts. I have no fear that he will return to the State of New York, provided he is now outside of its jurisdiction. Besides, I am an old man and haven't many years left anyway."

Learned of the Escape.

The first Dr. Flint heard of the escape was when Dr. Kiehl, present head of the asylum, called him on the long distance telephone at 9 o'clock yesterday morning and told him that the full circumstances as he knew them. He was asked why Dr. Kiehl should have called him up. "Why," he replied, "to discuss the case, of course," he replied with a smile.

"Why do you think that Thaw selected this time to escape when he has had so many chances in the past?" was another question.

"Thaw has evidently been planning this escape," was the answer, "since he realized that he had exhausted all legal measures to obtain his freedom through the courts. It is certain to my mind that he had to bribe at least one attendant and it may have taken him some time to pick the right man for the job. Then it was necessary for him to arrange for the automobiles and also to see to it that the man who was to help him was on duty at the proper moment."

Dr. Flint's statement follows: "Dr. Kiehl, superintendent of the Matteawan Hospital, called me up this morning to discuss the escape of Thaw. Thaw must have got out through the ward, which is always locked—each attendant having a master key and a key to the medical staff also a key. By collusion, presumably of a keeper, Thaw knows his way about the hospital thoroughly. He went to the store room and in the store room is a door or gate leading to the outside. That gate is in charge of an employee who has been in the hospital seventeen years. He was not an attendant. His name is Howard Karpman. He gave notice of his intention to escape minutes. This gave Thaw a ten minute start. The direct line to Connecticut is sixteen miles in length and but a little more by the highway. The distance could easily be made in a few minutes in an automobile. Once in Connecticut Thaw is a free man and cannot be recovered by extradition, because having been accounted for by the courts he is innocent of any crime. That is the fault of our law."

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District Attorney Whitman at Bretton Woods was asked by a representative of The Sun his opinion of the legal status of Thaw and of the possibility of his extradition. Mr. Whitman said: "There are no indictments pending in the Thaw case now. No extradition law permits the return of an insane patient from one State to another. The only course possible is for the Connecticut authorities to commit him to one of their State asylums in case he is captured within the boundaries of that State. The escape of Thaw does not directly concern the District Attorney's office of the county of New York, as all proceedings conducted for State institutions are handled by the State Attorney-General. Francis P. Garvan, the former Assistant District Attorney who aided William Travers Jerome in the prosecution of Thaw, said last night that Thaw could be caught and returned to Matteawan only if he were located in this State. Outside of this State, he said, New York officials have no rights in such a case."

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The course that the law can take under these conditions was made very clear by Assistant District Attorney G. W. Strong, who has had much to do with indictments and extradition cases in the New York District Attorney's office. According to him, there are only two ways of even thinking of getting Thaw back into Matteawan if he is outside the State, and neither of these he thinks is useless. He thinks there is no chance that Thaw will be returned to custody."

One way of getting an insane person back to the State from which he escapes is that of resorting to the insanity laws of any State which allows an insane person to be returned to an asylum in which he was committed. Such a person cannot pay for his keep."

An example of this course was described by the Assistant District Attorney in question from a case of a year ago. An insane woman who escaped from a Massachusetts asylum reached New York and was taken to the State of New York. She was returned to the State from which she came because she was a pauper. This would hardly apply to Thaw, who is pointed out, as he would pay for his board."

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Rehearsal on Saturday Now Seen in Strangers' Actions.

DANBURY, Conn., Aug. 17.—Harry Thaw is believed to have passed through here at 11 o'clock this morning. A black car containing three men stopped for a few minutes at a hotel and a woman on toward Waterbury. Moreover it is also believed that Thaw's escape from Matteawan was carefully rehearsed yesterday.

At 1 o'clock yesterday afternoon two men in a six cylinder Packard car arrived at Taylor's Hotel in Mill Plain, which is one mile east of the New York State line and four miles west of the Connecticut line. It is on the direct road between Matteawan and Danbury. This automobile was also a black one.

The two men in it inquired if they were Harry Thaw and if he was recovered from his insanity. They were told that he was not in New York State. E. Thatcher Hoyt talked with both men and directed them as to the exact whereabouts of the State line. The two men had passed the State line into Connecticut at the right. They displayed much anxiety over the point and went back to locate the line. Furthermore, they said they had passed through Stormville, to which place Thaw was traced today. All this leads to the belief that the men yesterday were rehearsing the route they were to take to Thaw.

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The three left after inquiring the way to Hartford. At that time the police here knew nothing of Thaw's escape. They had heard that an automobile and a passenger had been seen near Matteawan, but they were not informed that the passenger was Thaw and had received no description of the car. As a result they merely notified the garage to watch out for a black car.

The three men and the black car headed toward Waterbury after it left here.

GLYNN WILL INVESTIGATE.

Acting Governor Says Escape of Thaw Is Serious Matter.

ALBANY, Aug. 17.—"This is a very serious matter," declared acting Governor Glynn last night in discussing the Thaw escape. "I shall start an immediate investigation."